

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simone Cherry (T2)	Team: Team # 5	CCRB Case #: 200917813	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/27/2009 2:15 PM	Location of Incident: 1105 Elder Avenue	Precinct: 43	18 Mo. SOL 4/27/2011	EO SOL 4/27/2011	
Date/Time CV Reported Wed, 11/18/2009 3:40 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 11/18/2009 3:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Leitao	03718	944132	043 PCT
2. POM Nathaniel Anthony	03172	923516	043 PCT
3. POM Miguel Iglesias	15012	941926	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Natasha Heron	01367	925204	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Miguel Iglesias	Force: PO Miguel Iglesias slammed a car door on § 87(2)(b)'s hand.	
B.POM Miguel Iglesias	Force: PO Miguel Iglesias used physical force against § 87(2)(b)	
C.POM Anthony Leitao	Force: PO Anthony Leitao used physical force against § 87(2)(b)	
D.POM Anthony Leitao	Abuse: PO Anthony Leitao searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.POM Nathaniel Anthony	Abuse: PO Nathaniel Anthony searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	

### Case Summary

On November 18, 2009, § 87(2)(b) and § 87(2)(b) walked into the CCRB to file their complaint. On October 27, 2009, at approximately 2:15 p.m., § 87(2)(b) double-parked her vehicle in front of a residential building at 1105 Elder Avenue in the Bronx. § 87(2)(b) was seated in the passenger seat. Police Officers Anthony Leitao, Nathaniel Anthony, Miguel Iglesias, and Natasha Heron who were assigned to the Street Narcotics Enforcement Unit (SNEU) questioned § 87(2)(b) and § 87(2)(b). At 2:45 p.m., Police Officer Anthony Leitao arrested § 87(2)(b) for § 87(2)(b). The following allegations resulted from this interaction:

- **Allegation A- Force: Police Officer Miguel Iglesias slammed a car door on § 87(2)(b)'s hand.** § 87(2)(g)
- **Allegation B- Force: Police Officer Miguel Iglesias used physical force against § 87(2)(b).** § 87(2)(g)
- **Allegation C- Police Officer Anthony Leitao used physical force against § 87(2)(b).** § 87(2)(g)
- **Allegation D- Police Officer Anthony Leitao searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.** § 87(2)(g)
- **Allegation E- Police Officer Nathaniel Anthony searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.** § 87(2)(g)

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-year-old black female, 5'8", 150 pounds with black hair and brown eyes, § 87(2)(b). She was interviewed at the CCRB on November 18, 2009 (encs.9A-D).

##### CCRB Testimony

On October 27, 2009, between 2:15 p.m. and 2:30 p.m., § 87(2)(b) reported that she had double-parked her vehicle in front of a residential building located at 1105 Elder Avenue in the Bronx. She was dropping off her fiancé, § 87(2)(b) who was seated in the passenger seat. Prior to parking at this location, § 87(2)(b) saw an unmarked black Impala with tinted windows slowly drive past her vehicle. About thirty seconds later, this same vehicle and a second unmarked car with tinted windows stopped adjacent to her vehicle. About three-four unidentified uniformed males and one female officer exited the vehicles. Subsequently, the female officer (identified via investigation as Police Officer Natasha Heron) approached the driver's side and § 87(2)(b) asked what did she do and PO Heron told her she was double-

parked. PO Heron then asked § 87(2)(b) for her identification, prior to telling her to exit her vehicle. § 87(2)(b) provided her New York State Driver's license and PO Heron stood next to her throughout the entire incident. The male officers (identified via investigation as Police Officers Anthony Leitao, Miguel Iglesias and Nathaniel Anthony) then approached § 87(2)(b) on the passenger side, asked for his identification, and told him (once to twice) to exit the vehicle. § 87(2)(b) reluctantly exited the vehicle. § 87(2)(b) also had no identification on him and § 87(2)(b) showed the officers his New York State Benefit's Identification card. A crowd began to gather and § 87(2)(b) was arrested. § 87(2)(b) denied that § 87(2)(b) resisted being handcuffed. One of the male officers (identified via investigation as Police Officer Nathaniel Anthony) then searched § 87(2)(b)'s vehicle by looking into it and pulled up an arm rest. § 87(2)(b) said that dried leaves were on her car's floor and Police Officer Anthony accused her of having marijuana shavings and asked if she smoked marijuana, which she denied doing. § 87(2)(b) was not issued any summons or arrested. § 87(2)(b) was transported to the 43<sup>rd</sup> Precinct stationhouse and § 87(2)(b) followed the officers in her vehicle to the 43<sup>rd</sup> Precinct stationhouse.

**Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-year-old black male, 5'5", 160 pounds, with black hair and brown eyes, § 87(2)(b), and was interviewed at the CCRB on November 18, 2009 (encs.10A-E).

**CCRB Testimony**

On October 27, 2009, between 2:15 p.m. and 2:30 p.m., § 87(2)(b) reported that his fiancée, § 87(2)(b) drove him to 1105 Elder Avenue in the Bronx. He was going to visit a friend (name not provided). As § 87(2)(b) was about to exit the vehicle, he placed his hand on top of car hood. Simultaneously, an unidentified male officer (identified via investigation as Police Officer Miguel Iglesias) had approached him and slammed the car door on his hand and pushed him back into the car and asked where he was going. § 87(2)(b) replied, "Excuse me, you just slammed the door on my finger and you ask me where am I'm going. You are not supposed to be asking me that. Where I'm going is none of your business." § 87(2)(b) sustained pain to his middle finger but did not seek medical attention. Police Officer Iglesias then grabbed his arm and pulled him from the car and threw him against the car. Afterwards, Police Officers Anthony Leitao and Nathaniel Anthony (identified via investigation) asked § 87(2)(b) why was he double-parked and for his identification. § 87(2)(b) provided his New York State Benefit Identification card. Police Officers Leitao, Iglesias, and Nathaniel Anthony (identified via investigation) searched § 87(2)(b) by patting his outer garments and looked into his coat jacket that he unzipped and vouchered some unspecified items and money that they placed in a brown envelope. § 87(2)(b) denied that he resisted being handcuffed. Instead, § 87(2)(b) said that all the male officers, who he did not see, stood behind and nudged him in the back with their elbows. § 87(2)(b) claimed no injury. § 87(2)(b) also said that Police Officer Leitao accused him of kicking him, which he denied doing, and the unidentified female officer (identified via investigation as Police Officer Natasha Heron) used profanity towards him, but he could not recall what she said. One of the male police officers then drove § 87(2)(b) to the 43<sup>rd</sup> Precinct stationhouse. Another unidentified police officer transported § 87(2)(b) to central booking that day.

## **NYPD Statements:**

### **Subject Officer: Anthony Leitao**

- *Police Officer Leitao, a § 87(2)(b)-year-old white male, is 5'10" 205 pounds, with brown hair and brown eyes.*
- *On October 27, 2009, Police Officer Leitao worked from 9:30 a.m. until 6:05 p.m., assigned to the 43<sup>rd</sup> Precinct Street Narcotics Enforcement Unit. He was partnered with a police officer whose name he could not recall, in an unmarked vehicle, and was dressed in uniform.*

### **Memo Book** (encs. 11A-B)

Police Officer Anthony Leitao had no memo book entries regarding § 87(2)(b) and § 87(2)(b)'s incident.

Police Officer Anthony Leitao provided a statement to CCRB on December 8, 2009 (encs.11C-D). On October 27, 2009, at approximately 2:15 p.m., Police Officer Leitao saw Police Officer Nathaniel Anthony engaged in a verbal altercation with § 87(2)(b) whose car was double parked. At this time, § 87(2)(b) was standing outside the vehicle on the passenger side. § 87(2)(b) told Police Officer § 87(2)(b) "I don't got to give you shit. I don't have to give you my ID. Leave me alone." When Police Officer Leitao approached them he smelled marijuana coming from the car but both § 87(2)(b) and § 87(2)(b) denied smoking any drugs. Police Officer Leitao denied slamming a car door on § 87(2)(b)'s hand, and he denied hearing § 87(2)(b) complain that this occurred. Police Officer Leitao then requested § 87(2)(b)'s identification but § 87(2)(b) refused to provide it and said, "I'm not giving you shit. I don't need to give you anything," while grabbing at his waist band. § 87(2)(b) also did not provide any identification for § 87(2)(b). § 87(2)(b) then kicked Police Officer Leitao in the right shin. At this point, Police Officer Leitao placed § 87(2)(b) under arrest. Another officer whose name he does not recall assisted him with handcuffing § 87(2)(b) who resisted. PO Leitao may have nudged § 87(2)(b) in the back in an attempt to handcuff him. Police Officer Leitao and Police Officer Anthony looked into § 87(2)(b)'s vehicle, which he described as a quick look on the car floor and seats and ashtray. Afterwards, § 87(2)(b) was transported to the 43<sup>rd</sup> Precinct stationhouse by another officer whose name he does not recall. While at the 43<sup>rd</sup> Precinct stationhouse, Police Officer Leitao processed § 87(2)(b)'s arrest paperwork. Another unidentified police officer then transported § 87(2)(b) to central booking.

### **Subject Officer: Miguel Iglesias**

- *Police Officer Iglesias is a § 87(2)(b)-year-old Hispanic male, is 6'1", 200 pounds, with black hair and brown eyes.*
- *On October 27, 2009, Police Officer Iglesias worked from 9:30 a.m. until 6:05 p.m., assigned to the 43<sup>rd</sup> Precinct Street Narcotics Enforcement Unit. He was partnered with Police Officers Nathaniel Anthony and Natasha Heron, in unmarked auto number 1046, and was dressed in uniform.*

### **Memo Book** (encs. 13A-B)

Police Officer Miguel Iglesias noted in his memo book that at about 2:45 p.m., § 87(2)(b) was arrested in front of 1105 Elder Avenue in the Bronx.

Police Officer Miguel Iglesias provided a statement to CCRB on January 14, 2010 (encs.13C-D). On October 27, 2009, at approximately 2:15 p.m., Police Officers Iglesias, Nathaniel Anthony, and Natasha Heron, encountered § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) in front of 1105 Elder Avenue, in the Bronx. PO Iglesias said this is a drug prone location where's he made numerous narcotics arrest. § 87(2)(b) and § 87(2)(b) were double-parked. Police Officer Iglesias said they decided to conduct a car stop to find out why they were double parked. Police Officer Iglesias approached § 87(2)(b) who was seated in the passenger seat with the door open, and Police Officers Anthony and Heron approached the driver, § 87(2)(b). PO Iglesias saw § 87(2)(b) make a sudden movement towards his upper body (pocket area) and told § 87(2)(b) not to go into his pocket and asked if he had placed anything in his pocket. § 87(2)(b) replied, "Fuck you. I don't got to tell you nothing." PO Iglesias then asked § 87(2)(b) if he had any weapons on him. § 87(2)(b) replied, "I don't got to tell you shit." PO Anthony then approached and looked onto the car's floor. He did not see a weapon, but he did see what he assumed were marijuana shavings. PO Iglesias said there was not enough marijuana to test.

PO Iglesias told § 87(2)(b) to exit the vehicle for his safety and to make sure he had no weapons on him. § 87(2)(b) complied. PO Iglesias held § 87(2)(b)'s arm to make sure he would not hit him as he escorted him to the back of the car. PO Iglesias denied that he slammed the car door on § 87(2)(b)'s hand or threw him against the car or heard him complain about sustaining any injury. While in back of the car, § 87(2)(b) continued to be uncooperative and said, "Why are you harassing me, this is fucking ridiculous. You guys can't do shit. You're a bunch of pussies." § 87(2)(b) told § 87(2)(b) to calm down and § 87(2)(b) replied, "Fuck you bitch, don't tell me what to do." Another officer, Police Officer Anthony Leitao, who was dressed in uniform, arrived and attempted to frisk § 87(2)(b) by placing his hand on § 87(2)(b)'s upper body pocket area to make sure he had no weapons. § 87(2)(b) then kicked PO Leitao in the leg and PO Leitao said, "You kicked me." PO Iglesias only grabbed § 87(2)(b)'s hands and attempted to handcuff him. § 87(2)(b) resisted being handcuffed and flailed his arms. PO Iglesias denied that he used any unnecessary force while handcuffing § 87(2)(b). § 87(2)(b) was then transported the 43<sup>rd</sup> Precinct stationhouse and PO Leitao processed § 87(2)(b)'s arrest paperwork.

**Subject Officer: Nathaniel Anthony**

- *Police Officer Anthony is a § 87(2)(b)-year-old Hispanic male, is 6'0", 225 pounds, with black hair and brown eyes.*
- *On October 27, 2009, Police Officer Anthony worked from 9:30 a.m. until 6:05 p.m., assigned to the 43<sup>rd</sup> precinct Street Narcotics Enforcement Unit. He was partnered with Police officers Miguel Iglesias and Natasha Heron, in unmarked auto number 1046, and was dressed in uniform.*

**Memo Book** (encs. 12A-B)

Police Officer Nathaniel Anthony had no memo book entries regarding § 87(2)(b) and § 87(2)(b)'s incident.

Police Officer Nathaniel Anthony provided a statement to CCRB on December 15, 2009 (encs. 12C-D). Sometime prior to § 87(2)(b)'s arrest Police Officer Anthony and Police Officers Miguel Iglesias and Natasha Heron drove past, twice, § 87(2)(b)'s double-parked vehicle. Police Officers Anthony and Heron approached § 87(2)(b) and Police Officer Iglesias approached § 87(2)(b). Police Officer Anthony asked § 87(2)(b) why did she double-park in a drug prone location and she replied that she was talking to her friend. § 87(2)(b) produced her car paperwork and PO Heron continued talking to her. PO Anthony then heard § 87(2)(b) tell PO Iglesias, "Fuck you. I don't have to give you anything. I'm not going to give you anything." PO Anthony then walked to the passenger side of the vehicle and saw the

car door open and continued to hear § 87(2)(b) curse at PO Iglesias. PO Anthony also said that § 87(2)(b) cursed at § 87(2)(b). PO Iglesias asked § 87(2)(b) for his name and why he was at the location, prior to telling § 87(2)(b) to exit the vehicle so he could see his hands. § 87(2)(b) was initially uncooperative and leaned backwards into the car. Eventually, § 87(2)(b) complied and exited the car. However, PO Anthony denied that he saw or heard § 87(2)(b) complain that an officer slammed a car door on his hand or saw an officer throw him against the car.

Police Officer Iglesias escorted § 87(2)(b) to the back of the car. PO Anthony smelled marijuana in the car and decided to look on the car's floor. He saw loose quantity of marijuana but said there was not enough to be tested. While he searched the car, another police officer named, Police Officer Anthony Leitao arrived. PO Anthony heard PO Leitao say, "You can't kick me like that. Turn around and place your hands behind your back." PO Anthony denied that he assisted PO Leitao with handcuffing § 87(2)(b) or had any physical contact with § 87(2)(b). Afterwards an officer transported § 87(2)(b) to the 43<sup>rd</sup> Precinct stationhouse.

**Witness Officer: Natasha Heron**

- *Police Officer Heron is a § 87(2)(b)-year-old Hispanic female, is 5'6", 160 pounds, with brown hair and brown eyes.*
- *On October 27, 2009, Police Officer Heron worked from 9:30 a.m. until 6:05 p.m., assigned to the 43<sup>rd</sup> Precinct Street Narcotics Enforcement Unit. She was partnered with Police Officers Miguel Iglesias and Nathaniel Anthony, in unmarked auto number 1046, and was dressed in uniform.*

**Memo Book** (encs. 14A-B)

Police Officer Natasha Heron had no memo book entries regarding § 87(2)(b) and § 87(2)(b)'s incident.

Police Officer Natasha Heron provided a statement to CCRB on January 20, 2010 (encs. 14C-D). Prior to § 87(2)(b)'s arrest, Police Officer Heron said she and Police Officers Miguel Iglesias and Nathaniel Anthony had initially drove past, twice, § 87(2)(b)'s double-parked vehicle. This was a drug prone location and they decided to conduct a car stop. PO Heron approached § 87(2)(b) on the driver's side and asked for her driver's license and car registration, which she provided. Police Officers Iglesias and Anthony approached § 87(2)(b) on the passenger side. Both parties had made a lot of movement. PO Heron then asked § 87(2)(b) to exit the vehicle for their safety and Police Officers Iglesias and Anthony asked § 87(2)(b) to exit the vehicle to make sure he had no weapons.

Throughout the entire incident, Police Officer Heron remained standing with § 87(2)(b) on the driver's side and never spoke to § 87(2)(b) or saw him handcuffed. § 87(2)(b) was not issued a summons but was upset about the situation. Police Officer Heron also did not hear the officers ask § 87(2)(b) for his identification. Instead, PO Heron heard PO Iglesias ask § 87(2)(b) if he had anything and § 87(2)(b) reply, "I don't have to give you shit or tell you shit." § 87(2)(b) also told § 87(2)(b) "Shut up bitch," but PO Heron did not recall what led up to this statement. PO Heron denied that she heard § 87(2)(b) complain that an officer slammed a car door on his hand or saw an officer throw him against the car. PO Heron had no knowledge that an officer accused § 87(2)(b) of having marijuana shavings in her car and denied that she saw an officer search § 87(2)(b)'s vehicle.

## **NYPD Documents**

### **Command Log** (enc. 18)

§ 87(2)(b) s arrest was logged in the command log at 3:00 p.m.. His mental and physical status was listed as normal and no medical attention was requested.

### **Summons/Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings** (enc. 23)

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 29, 2010 with regard to the incident.

### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilians CCRB Histories** (encs. 6-7).

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b)

### **Subject Officers CCRB Histories** (encs. 3A-B, 4, 5).

- Police Officer Miguel Iglesias has been a member of service for three years and there is one substantiated CCRB case against him that resulted in discipline. In Case 200813882-Abuse-frisk and search of person, the Board recommended charges; the case is pending at NYPD for this allegation. § 87(4-b) § 87(2)(g)
- Police Officer Anthony Leitao has been a member of the service for five years and there are no substantiated CCRB allegations against him.
- Police Officer Nathaniel Anthony has been a member of the service for ten years and there are no substantiated CCRB allegations against him.

## **Conclusion**

### **Identification of Subject Officers**

Police Officers Miguel Iglesias, Anthony Leitao, Nathaniel Anthony confirmed their involvement with § 87(2)(b) during the incident.

### **Investigative Findings and Recommendations**

#### **Allegation Not Pleaded**

- § 87(2)(b) mentioned that all the male officers stood behind him and nudged him in the back, but § 87(2)(b) did not see who did this. § 87(2)(g)

Allegation A: Force: Police Officer Miguel Iglesias slammed a car door on § 87(2)(b)'s hand

Police Officer Miguel Iglesias admitted he approached § 87(2)(b) on the passenger side of § 87(2)(b)'s double-parked vehicle to find out why they were double parked. He saw the car door open and § 87(2)(b) partially out the vehicle with one foot in the street. PO Iglesias said he told § 87(2)(b) to exit the car for his safety after he saw him make a sudden movement towards his upper body (pocket area), but PO Iglesias denied that he slammed the car door on § 87(2)(b)'s hand. The witness, § 87(2)(b) also acknowledged that § 87(2)(b) was reluctant with showing his identification and exiting her vehicle upon the officer's request and she never mentioned that she saw a car door slammed on § 87(2)(b)'s hand. § 87(2)(b) also stood on the passenger side of the vehicle throughout the entire incident and it is not clear if she would have seen this occur. However, § 87(2)(b) claim to have sustained pain to his middle finger from the time of this incident until the time of this interview, which was a month after the incident, but never sort medical attention.

According to Patrol Guide procedure 203-11 attachment (encs. 2A-B), all uniformed members of service are responsible for the proper use of force under appropriate circumstances.

§ 87(2)(g)

Allegation B- Force: Police Officer Miguel Iglesias used physical force against § 87(2)(b)

Allegation C- Force: Police Officer Anthony Leitao used physical force against § 87(2)(b)

§ 87(2)(b) alleged that prior to exiting the car Police Officer Iglesias pushed him back into the car and asked where was he going and for his identification, then grabbed his arm and pulled him from out the car, and threw him against the car. While in the back of this car, § 87(2)(b) was handcuffed but denied that he resisted being handcuffed, but alleged that the male officers used their elbows to nudge him in the back. § 87(2)(b) did not sustain any injury or seek medical attention.

Police Officer Iglesias admitted that Police Officer Anthony Leitao assisted him with rear handcuffing § 87(2)(b). PO Iglesias also said when § 87(2)(b) exited the car that he grabbed § 87(2)(b)'s arm for his safety then escorted § 87(2)(b) to the back of the car, but PO Iglesias denied that he used the force alleged by him. However, Police Officer Leitao admitted that he may have nudged § 87(2)(b) in the back incidental to handcuffing him, after § 87(2)(b) kicked him in the leg. The witness, § 87(2)(b) also saw the officers frisk § 87(2)(b) and heard an officer accuse § 87(2)(b) of kicking him.

According to Patrol Guide procedure 203-11 attachment (encs. 2A-B), all uniformed members of service are responsible for the proper use of force under appropriate circumstances.

§ 87(2)(g)

Allegation D- Abuse of Authority: Police Officer Anthony Leitao searched the car in which § 87(2)(b) and § 87(2)(b) were occupants



Allegation E- Abuse of Authority: Police Officer Nathaniel Anthony searched the car in which § 87(2)(b) and § 87(2)(b) were occupants

Police Officers Anthony Leitao and Nathaniel Anthony admitted that they searched § 87(2)(b)'s double-parked vehicle that was in a drug prone location. PO Leitao said that he saw a green leafy substance on the car's floor. He and PO Anthony then conducted a quick search of the vehicle by looking only on the car floor, seats, and ashtray. PO Anthony also said that one car door was open and he smelled marijuana in the car, but he only looked on the car floor and saw a loose quantity of marijuana shavings but there was not enough to test. § 87(2)(b) admitted that dried leaves were on her car's floor when the officers looked into her vehicle, lifted up an arm rest, accused her of having marijuana shavings, and asked if she smoked marijuana, which she denied doing.

According to Kamins, New York Search and Seizure, p. 5-91-5-93 (2006 ed.), 'If an officer makes a valid investigatory stop of a vehicle and observes in plain view a quantity of drugs or smells the distinctive odor of drugs, he would have probable cause to search the entire vehicle.' § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: **FIVE**

Investigator: _____	<u>Simone Cherry</u>	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date